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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,709	11/12/2003	David J. Burke		7599

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EXAMINER

BARNEY, SETH E

ART UNIT PAPER NUMBER

3752

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/706,709

Applicant(s)

BURKE, DAVID J.

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because it is unclear how Figure 4 corresponds to Figure 3 in regards to the concentric rings starting with the outermost ring (40). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the specification how fluid communicates between passage (34) and chamber (44). It is unclear from Figure 3 how chamber (44) directs spray to the central concentric rings, while chamber (45) directs fluid to the outer concentric rings. It appears from the figures that both chambers would direct flow to the periphery. It is unclear how fluid is directed away from chambers (44) and (45) when set to only flow through ports (43).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1 and 2, as best understood, are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,612,507 to Meyer et al.

Regarding claim 1, Meyer discloses a hose sub assembly having:

-an inlet (20) capable of being connected to a riser and a discharge end at the opposite end.

-a grip (84) secured to the discharge end having a duct for flow of water

-a spray head assembly (10) including a housing (12) secure to the grip and having a passage in communication with the grip to conduct flow of water, and a spray

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head (80) rotateably mounted on the housing and having a plurality of openings (92) for selective communication with the passage in the housing to discharge water in at least three spray patterns.

Regarding claim 2, the spray head has four circumferentially spaced apart ports for selective communication with the passage, one of the ports communication with a first spout of a first diameter to discharge full stream (94d), a second port of a lesser diameter (94a), and a third port for spraying mist (94c).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-8, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over as U.S. Patent No. 6,612,507 to Meyer et al as applied to claim 1 above, and further in view of U.S. Patent No. 4,618,100 to White et al.

Meyer discloses all of the limitations set forth in the claims except for a peripheral and central set of concentric rings of outlets. White et al. discloses a spray nozzle with different spray patterns selectively actuated by a rotating head (20), wherein there are concentric circles of spray located both centrally and peripherally. See Figure 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sub hose assembly of Meyer with the concentric circle spray pattern of White in order to allow for a larger variety of spray patterns.

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8. Claim 9, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over as U.S. Patent No. 6,612,507 to Meyer et al as applied to claim 1 above, and further in view of U.S. Patent No. 5,873,531 to Wang.

Meyer discloses all of the limitations set forth in the claims except for a spring-biased detent. Wang discloses a nozzle having a selective pattern spray head with a spring-biased detent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sub hose assembly of Meyer with the detent of Wang in order to properly maintain the selector head in the current selected spray pattern position.

9. Claims 10-18, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,612,507 to Meyer et al in view of U.S. Patent No. 4,618,100 to White et al.

As aforementioned, Meyer discloses a spray head assembly having all of the limitations claimed except for: external threading, a hollow plug, and a second housing secured to the first housing and having a water passage in the communication with the passage of the first housing to conduct the flow of water. White discloses a spray head having a hollow plug (30) and a second housing (85, 61, See figure 11), as well as peripheral and central set of concentric rings of outlets

It would have been an obvious matter of design choice to modify the spray head of White with external threads, since the applicant has not disclosed that external threads solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any appropriate threading to connect.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spray head of Meyer with the second housing and hollow plug in order to have a simpler flow system.

10. Claim 19, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,612,507 to Meyer et al in view of U.S. Patent No. 4,618,100 to White et al. as applied to claim 10 above, and further in view of U.S. Patent No. 5,873,531 to Wang.

Meyer does not disclose a spring-biased detent. Wang discloses a nozzle having a selective pattern spray head with a spring-biased detent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sub hose assembly of Meyer with the detent of Wang in order to properly maintain the selector head in the current selected spray pattern position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

SB



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